1949. **File No.** S. Dist 1/49

Examined. Legal **DEPARTMENT**

A **BRANCH**

Subject:— Civil Suit No: 377 of 1947.

1) Chandragauda Basagauda Patil and others ---} - Pltf.

Versus P-172E

1) The Province of Bombay and others ---} - Defts.

a declaration that the plaintiffs and the defendants Nos. 5, 6, and 7 are not liable to contribute to the remuneration of the officiating Patil of the village of Baad, Taluka Dharwar and for a permanent injunction restraining any amount from the plaintiffs.

File No. S. Dist 1/49

C O N T E N T S.

Legal Department File No. S. Dwr. 1/49.

Sr.No.	R.I./C.No.	Subject	Pages.

Suits Dharwar.

C.S.No. 377 of 1947.

C. B. Patil and others pltfs.

V/s :

The Province of B'bay and other Defts.

For a declaration that the pltfs. and the defts. [5, 6, 7] are not liable to contribute to the remuneration of the officiating Patil, and for a permanent injunction restraining Govt. from recovering any amount from the pltfs.

1-32.

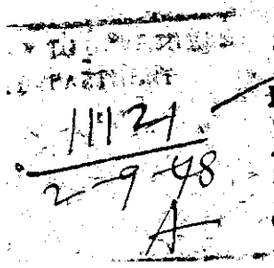
Below Collector of Dharwar's letters Nos. L.A.W. dated 10-7-1948 and 21-8-1948.

No. L.S.T.399

Belgaum, 27th August 1948.

Submitted.

2. This is a suit filed by Messrs Chandragouda Basanagouda Patil and 5 others of Bad, (i) for an injection to restrain Provincial Government (Deft. No. 1) from recovering from them contributions towards the remuneration of the officiators in consideration of the fact that patilki kadmi lands are in their possession, and (ii) for a declaration that the Inamadars (Defts No. 2 to 4) are liable to pay, as part of the patilki emolments 'Aya' or 'Huggi' corn to the officiating Patil.



3. Bad is a personal inam village in Dharwar District. It has neither been surveyed nor settled nor has the record of rights been introduced therein. Consequently no scale potgi-patrak has been prepared for the patils. There are 32 patilki service lands including the following kadim lands - viz S.Nos. 12, 13, 14, 15, 16, 17, 18 and 19 with an aggregate nafa of Rs. 94-15-6 The 8 kadim lands in question have been partitioned amongst the members of the patilki family. In 1935 the officiator complained about the remuneration and requested that 'Aya ' should be levied from the villagers. The Prant Officer, 1st Division, Dharwar by his order No. 1571, dated 14-11-1935 refused the request of the officiator on the ground that there are lands assigned for the remuneration of the officiator. In appeal the Collector held that the lands in question were assigned property and directed the Prant Officer to take further action in the matter. The Prant Officer held enquiry under section 23 of the B.H.O.Act and by his order dated 8-2-1947 assigned the lands in

in question for the remuneration of the officiator under section 23 and directed that the remuneration of Rs. 94-5-6 should be recovered from each of the persons in possession of the kadim lands in proportion to the Mafa enjoyed by him. Being dissatisfied with this order of the Prant Officer the plaintiffs have filed this suit.

4. The note below paragraphs 8 at page 87 of the Revenue Accounts Manual (read with section 23 of the B.H.O.Act) says that the kadim inam lands of patils and kulkarnis in unsurveyed villages are to be deemed as assigned for remuneration. In view of this the Prant Officers's orders dated 14-11-35 and 8-2-1947 assigning the lands under section 23 of the B.H.O.Act are legal and binding on the plaintiffs. The suit can therefore be defended.

5. Sanction may please be accorded to defend the suit on the lines of the grounds of the defence prepared by the District Government Pleader and the additional ground referred to above.

6. The case papers are enclosed.

D. Wadkar

Signed
by Commr. for Commissioner, S.D.

Remembrancer of Legal Affairs.

[illegible] of 1947.

In the Court of the Civil Judge,
Senior Division,
At Dharwar.

Plaintiffs:- 1. Chandragouda son Basanagouda Patil
Age 35, Caste Lingayat, Occupation
Agriculture, of Bad, Taluka Dharwar

2. Kallanagouda Dod-Basanagouda Pati
Age 35, Caste and Occuation and
Residence -Do-.

3. Dyamanagouda Guddapragouda Ptil
Age 35, Caste, Occupation and
Residence -Do-.

4. Marigouda Kallanagouda Patil,
Ag 25, Caste, Occupation and
residence -D-.

5. Ganganagouda Kallanagouda Patil,
Ag 25, Caste, Occupation and
residence -Do-.

6. Paryatagouda Kallanagouda Patil,
Ag 50, Caste, Occupation and
Residence -D-.

Against

Defendants:- 1. The Province of Bomabay.

2. Sarvar-kha wd. Hasan Mahammad-kha
Jahagirdar, Age 60, Caste Mahomme-
dan, Occupation Watani Mahivat,

of Bad, Taluka Dharwar.

3. Gous-kha alias Attar-kha wd. Abdul-kha Jahagirdar, Age 50, Caste, Occupation and residence -Do-.

4. Gouskha wd. Dadulkha Jahagirdar, Age 60, Caste, Occupation and residence -Do-.

5. Kallanagouda Dyamanagouda Patil, Age 40, Caste Lingayat, Occupation Agriculture, of Bad, Taluka Dharwar.

6. Kallanagouda Basanagouda Patil, Age 60, Caste Lingayat, Occupation -Do-, of -Do-.

7. Marigouda Rudigouda Patil, Age 50, Caste, Occupation and esidence -Do-.

Cam - Rs.

The plaintiffs, abovenamed, beg to submit most respectfully as under:-

1. The plaintiffs and defendants, 5, 6 and 7 are the representatives of the various branches of the Patilki-family of Bad, a village in Dharwar Taluka. The village is personal Inam and defendants 2, 3 and are some of the Inamdars of the said villag and deft 3 is also the khatedar.

The patils of the villag are Kadim -- Inamdars and the Kadim Patilki Inam

servie lands are S Nos. 12, 13, 14, 15, 16, 17, 18 and 19 and the aggregate Nfa on them is Rs. 94-5-6. The said lands have been partitioned amongst the members of the Patilki family at different times and the plffs and defts 5, 6 and 7 are in possession of such portions as have fallen to their respective shares.

From ancinent times, the Inamdars have been remunerating the officiating Patils by giving Aya or nuggi corn of about 8 mers or paddy annually which is equivalent to 16 bags of paddy of 120 standard seers eahh in addition to the Nafa enjoyed by the Patilki family in respect of the Watan lands. This payment of paddy was and is a part orthe Patilki watan. It is so recognised and affirmed by the Inamdars themselves from tim to time.

[illegible] village. Record of Rights has not been introduced as yet. No Potgi Patrika is prepared.

Neither the Kadim Patilki Inam service la not any part thereof, nor any profits nor any part of the profits thereof were xx or was ever assigned for the remuneration of the officiators. The persons in possessio

of the Patilki watan lands are not in any way liable to contribute for the remuneration of ~~xx~~ the officiating Patil.

Inspite of this, the District Deputy Collector I Division, Dharwar passed an order on 14-11-35 that ~~xx~~ no Huggi or Jwa corn should be recovered from the Inamdars towards the remuneratio of the officiating Patil and the Prant Officer passed an order dated 8-2-47 assigning all the Patilki lands mentioned in para 2 of the plaint, under 23 of the Bombay Hereditary Offices at for remunerating of the officials . The order of 14-11-35 assumes that the said lands are already assigned specifically for remuneration of the officiator, but the order of 8-2-47 assumes that there was no such assignment and purports to make a fresh assignment for the first time in 1947. These orders of the officers or deft No. 1 are thus self-contradictory and illegal. They are contrary to facts. They are without jurisdiction. The order of 8-2-47 shifts without any justification the onus of remuneraing the officiator from the Inamdars to the Patils themselves. The orders are inequitable and unjust . Both these orders are passed without proper inquiry aned without any sufficient grounds or evidence. No proper enquiry was ever made with regard to the prevalent custom of the Patilki family being remunerated by payment of the corn to the officiator. Some of the watandar Patils were made to ~~xx~~

admit their liability to contribution under official pressure and under his representation and without full understanding of the facts. These admissions are contrary to facts. These two orders of the officers or deft No. 1, are mis-conceived and based on in-accurate and incomplete facts or on facts assumed which have never existed. These orders are void and in-operative. They are not binding on the plffs and are liable to be set aside. The order of 14-11-35 is in fact superceded and cancelling by the order of 8-2-47.

Relying on the illegal and unjust orders of 14-11-35 and 8-2-47, the defts Nos. 2, 3 and 4 and the Inamdars have been refusing to pay the Aya. It was therefore necessary for the plffs to file this suit to obtain proper reliefs.

The cause of action for this suit arose on or about 8-2-47, the date of illegal order passed by the Prant Officer purporting to assign the Patilki lands and the Nafa in respect thereof towards the remuneration of the officiators.

All the plffs have filed this suit as managers of their own respective families. Defts 5, 6 and 7 are also sued as managers of their respective joint families.

There are numerous persons of the family of the Inamdars having the same interest as defts 2,3

and 4 in the subject matter of the suit. The plffs request that they be permitted to sue defts 5, 6 and 7 as representing all the Inamdars in addition to the personal capacity to avoid multiplicity of suits. A separate application for such permission will be filed if necessary.

11. The suit is valued for purposes of Court fees and jurisdiction at Rs. 65/- as the suit is for a declaration and injunction.

12. The Court ofthe Civil Judge, Snior Division, Dharwar, has got jurisdiction to try this suit, as the suit is against the Province of Bombay.

13. Notice under Sec. 80 of the Civil Procedure Code has been sent to the Collector of Dharwar, by registered post. It was received by him more than two months before the institution of this suit.

13. Theplffs, therefore, pray -

(a) For a declaration the Inamdars of Bad are liable to pay as a part of thePatilki watan, Aya or Huggi corn to the officiating Patil as may be determined by the Collector from time to time and for an injunction to restrain deft No. 1, from recovering any amount towards th remuneration of the officiators from any memer of the P atilki family.

(b) For recovery of costs.

(c) For such other relief as the plffs may be entitled to under the circumstances of the case.

(d) For permission to amend the plaint if and when necessary.

Dharwar
Sept. 1947.

We, the abve named plffs do hereby on solemn affirmation state that what is stated ~~xx~~ in the above paras is true to the best of our knowledge and belief. We believe the same to be true.

Dharwar
Spt. 1947.

Sd/- ~~M.R.~~ Dehai-Kulkarni,
Pleader.
4-12-47.

Dharwar Civil Suit No. 377 of 1947.

The plaintiffs and defendants nos. 5,6, & 7 are Kadim Watandar Patils in an Inam village. They hold certain patilki watan land in shares. The total Nafa or profits of the land (the difference between the assessment and the manual judi) amounted to Rs. 94-15-6. The village is unsurveyed and unsettled and no scale remuneration under the Wingate Rules was fixed. In 1940 the officiating Patil complained that his remuneration was not sufficient and that therefore he should be paid the Nafa of Rs. 94-15-6 which the Watandar Patils enjoyed. After some correspondence and inquiries the Prant Officer passed an order on 8-2-1947 that the officiator should be paid the total profit of Rs. 94-15-6 and that amount should be recovered from the plaintiffs and defendants Nos. 5,6 & 7 in proportion to lands in their possession.

Plaintiffs have filed this suit against that order. They allege (1) that the remuneration of the officiator consisted of payment in kind i.e. coin by the Inamdar and that such payment has been recognised as part of the Patilki watan and (2) that neither the watan lands nor the profits thereof have been assigned from such remuneration. Both the contentions are wrong. As to (1) there is no evidence . As to (2) where no scale remuneration is fixed the presumption is that the entire profits of the lands are reserved as emoluments of the officiator (vide Phadnis p.117). The order of the Prant officer is thus correct. The suit is also barred under the Revenue Jurisdiction Act and is therefore defencible.

Sanction may be accorded to the defence on the lines of the appended brief. A draft written statement is put up for approval.

Perused Sd/- Illegible 27/10/48

RLA ALR RK 26/10 RM 26/10/48

27.10.48 Sd/- Illegible

M R.L.A 28.10.48

* No. 10051 dt. 27-10-48.

13 2495

In the Court of the Civil Judge, Senior Division at Dharwar.

L.C. Suit No. 377 of 1947.

Chandragouda Basanagouda Patil & Ors. - - - - - - Plaintiffs

versus

The Province of Bombay & Ors. - - - - - - - - - - Defendants.

The following is the written statement of Government in this case:-

1. The Court has no jurisdiction to entertain this suit under section 4(a) of the Revenue Jurisdiction Act, 1876.

2. The suit is also barred under section 11 of the Revenue Jurisdiction Act, 1876.

3. This defendant does not admit that the remuneration of the officiating Patil consisted in payment in kind i.e. corn or paddy by the Inamdar. Nor, is it admitted that such payment formed part of the Patilki watan. It is for the plaintiffs to prove this allegation.

4. The allegations in paragraph 5 of the plaint are denied. This defendant submits that since the village of Bad was unsurveyed and unsettled and no scale potgi was fixed the entire nafa or profits of the watan land must be considered to be the emoluments of the officiator.

5. The Prant Officer's order of 8th February 1947 was passed under section 23 of the Watan Act and is correct and intra vires.

6. The plaintiffs are not entitled to any relief against this defendant. It is therefore submitted that suit against this defendant be dismissed with costs.

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Suits :

Dharwar:

For a declaration that the plaintiffs and the defendants Nos. 5, 6 and 7 are not liable to contribute to the remuneration of the officiating Patil of the village of Baad, taluka Dharwar and for a permanent injuction restraining Government from recovering any amount from the plaintiffs.

GOVERNMENT OF BOMBAY.

LEGAL DEPARTMENT.

Resolution No. 10311.

Bombay Castle, 4th November 1948.

Letters from the Collector of Dharwar, both bearing No. L.A.W. and dated the 10th July 1948 and 21st August 1948—Forwarding papers in the suit noted in the margin and requesting sanction to its defence.

IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION), AT DHARWAR.

Civil Suit No. 377 of 1947.

Chandragouda Basangouda Patil and others ... ... Plaintiffs;

versus

The Province of Bombay and others ... ... Defendants.

Endorsement by the Commissioner, Southern Division, No. L.S.T. 399, dated the 27th August 1948—Forwarding the above with his concurrence.

Memorandum to the District Government Pleader, No. 10247, dated the 30th October 1948—Forwarding a copy of the brief with two copies of the written statement and its accompaniments in advance.

RESOLUTION.—Sanction is accorded to the defence of the suit on the lines of the accompanying brief.

By order of the Governor of Bombay,

P. M. LAD,
original Secretary to Government.

G. R. No. 10311, L. D., dated the 4th November 1948.

To

* The Revenue Department,
* The Commissioner, Southern Division,
* The Collector of Dharwar,
The District Government Pleader, Dharwar (with two copies of the brief).

* With a copy of the brief.

No. of 1948.

Copy forwarded for information and guidance to

Issued
16/2/49

Submitted after issue
File in S.DW2/49 (new)
16.2
A.S. 16/2

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DHARWAR CIVIL SUIT NO. 377 OF 1947.

Chronological Statement of Facts.

The suit is for a declaration that the plaintiffs and the defendants Nos. 5, 6 and 7 are not liable to contribute to the remuneration of the officiating Patil of the village of Baad, taluka Dharwar and that the Inamdar of the said village is liable to give paddy or corn to the officiating Patil and for a permanent injunction restraining Government from recovering any amount from the plaintiffs.

2. The village of Baad is an unsurveyed and unsettled personal Inam of Class II belonging to defendants Nos. 2, 3 and 4. No record of rights had been introduced in the village. No scale remuneration had therefore been fixed for the officiating Patil.

3. The Inam Register of Baad showed that Survey Nos. 12 to 19 were *kadim patilki* service lands. These lands were not specifically assigned for the remuneration of the officiating Patil and were held in different shares by the plaintiffs and defendants Nos. 5, 6 and 7. The following table shows the total assessment, *mamul judi* and the profit or *nafa* in respect of these lands :—

Survey No.	Assessment.	Mamul Judi.	Nafa.
	Rs. a. p.	Rs. a. p.	Rs. a. p.
16 17	0 2 0 73 0 0	60 0 0	13 2 0
14 15 18	46 5 0 0 11 6 27 2 0	60 0 0	14 2 6
12 13 19	14 3 0 20 8 0 33 0 0	.....	14 3 0 20 8 0 33 0 0
	214 15 6	120 0 0	94 15 6

4. In 1940 the officiating Patil applied to the revenue officers that he was not getting sufficient *potgi* for his services and requested that profit of Rs. 94-15-6 enjoyed by the representative watandars (plaintiffs) should be ordered to be paid to him. On 16th May 1942 the Prant Officer passed an order that the amount of *nafa* (the exact total is Rs. 94-15-6 and not Rs. 96-7-6 as mentioned in the Prant Officer's order) should be recovered from the persons in possession of the *patilki* lands and paid to the officiator.

5. Some of the sharers of the *patilki* lands preferred an appeal to the Collector against the Prant Officer's order. The Collector by his order No. W. T. P. 694, dated 2nd August 1942, returned the papers to the Prant Officer for inquiring (*a*) whether the lands had been specifically assigned for the remuneration of the officiator under section 23 of the Watan Act, (*b*) who were the persons liable for the remunaration of the officiator and to what extent within the *nafa* and (*c*) whether the scale *potgi patrak* had been sanctioned in this case. The Prant Officer was directed to make these inquiries and pass necessary orders.

6. On 8th February 1947 the Prant Officer passed an order that the officiator should be paid *potgi* equal to the aggregate *nafa* on all the lands amounting to Rs. 94-15-6 and that it should be recovered from the plaintiffs in proportion to the *nafa* enjoyed by each of them.

He also ordered that these lands should be entered in the Watan Register under section 23 of the Bombay Hereditary Offices Act as assigned *patilki* lands with a "lien" of payment of Rs. 94-15-6 to the officiator annually by the holders of the lands.

7. Aggrieved by this order the plaintiffs have filed this suit after giving notice under section 80 of the Civil Procedure Code.

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Grounds of Defence.

1. *Jurisdiction.*—The suit is in effect a suit to set aside or avoid the Prant Officer's order, dated 8th February 1947. That order was passed by that officer under section 23 of the Bombay Hereditary Offices Act. Therefore under the third paragraph of section 4 (*a*) of the Bombay Revenue Jurisdiction Act, 1870, the Civil Court has no jurisdiction to entertain this suit. Besides, the suit is also barred under section 11 of the same Act inasmuch as it has been filed without preferring all appeals allowed by law to the higher revenue officers.

2. *Merits.*—On merits, the plaintiffs' case is simple. They allege that the remuneration of the officiating Patil consists of payment in kind, i.e., he receives from the village Inamdar annually a certain quantity of corn or paddy called *aya* or *huggi*; that this payment in corn or paddy is a part of the Patilki Watan and has been recognised by the Inamdars themselves from time to time. Secondly, they contend that neither the *patilki* lands, nor any part thereof, nor any of the profits thereof have been assigned for the remuneration of the officiator and therefore the plaintiffs and defendants Nos. 5, 6 and 7 are not bound to contribute for such remuneration. These contentions seem to be wrong. As to payment in kind, it appears that up to 1930 the officiating Patil used to receive some corn annually from the Inamdar in addition to the profits of the *patilki* lands. In 1935 he appears to have applied for this payment in kind in addition to the profits of the land which he used to enjoy. But in his orders dated 14th November 1935 the Prant Officer rejected this request on the ground that the Patil was enjoying the *nafa* of Rs. 96-7-6 (the amount should be Rs. 94-15-6). At page 31 of the file is an excerpt from the order passed by the Prant Officer. The practice was therefore definitely discontinued from 1935. Apart from that, the mere fact that the Patil used to receive in the past some corn annually from the Inamdar is no conclusive evidence to show that his remuneration consisted only in such payment or that it formed part of the Watan. The watan register does not show any such liability on the Inamdar or his tenants. Therefore the allegation that the remuneration of the Officiating Patil consisted of payment in kind by the Inamdar should be denied. It will be for the plaintiff to prove it.

3. As regard the plaintiffs' second contention, it appears that this is an unsurveyed and unsettled village in which no scale remuneration for the Patil has been fixed under the Wingate Rules. But in cases where no scale *judi* is fixed the presumption is that the full profits or *nafa* of the land i.e. the difference between the total assessment and the *mamul judi* are reserved as emoluments for the officiator and in this way the land itself may be presumed to have been assigned property. (*See* Phadnis's Watan Act, pages 116-117, 5th Edition.) The Prant Officer was therefore right in ordering that the full profits of Rs. 94-15-6 should be paid to the officiator by the plaintiffs and defendants Nos. 5, 6 and 7 in proportion to the *patilki* lands in their possession. Since these watan lands were not specifically assigned under section 23 of the Watan Act, the Prant Officer was competent under that section to pass the order for entering these lands as assigned lands in the Watan Register.

4. It should therefore be urged that the suit fails and must be dismissed with costs.

S Dwz/45(new)
18.2.45

19

On an India Court Fee Stamp of Rs.6-4-0

L.C.Suit No.377 of 1947.

In the Court of the Civil Judge, Senior Division; At Dharwar.

Presented on 4th December 1947.
Sd/- X X X X
Clerk of the Court.

Plaintiffs :- Chandragouda Sannabasanagouda Patil of Bad. Taluka Dharwar, and 5 others.
against.
Defendants :- The State of Bombay and others 6.

Claim Rs.

The plaintiffs above named beg to submit most respectfully as under :-

1. The plaintiffs and ~~respondents~~ defendants 5, 6, and 7 are the representatives of the various branches of the Patilki family of Bad, a village in Dharwar Taluka. The village is a personal Inam and defendants 2,3 and 4 are some of the Inamdars of the said village and defendant 2 is also the khatedar.

2. The Patils of the village are Kadim Inamdars and the Kadim Patilki Inam service lands are Survey No.s12, 13, 14, 15, 16, 17, 18 and 19 and the aggregate nafa on them is rupees 94-5-6. The lands have been partitioned amongst the members of the Patilki family at different times and the plaintiff and defendant 5,6 and 7 are in possession of such

portions as have fallen to their respective shares.

3. From ancient times, the Inamdars have been remunerating the officiating Patils by giving Aya or Huggi corn of about 8 Hers of paddy annually which is equivalent to 16 bags of paddy of 128 standard seers each in addition to the Nafa enjoyed by the Patilki family in respect of the watan lands. This payment of paddy was and is a part of the patilki watan. It is so recognised and affirmed by the Inamdars themselves from time to time.

4. Bad is an unsurveyed and unsettled Inam village Record of Rights has not been introduced as yet. No potgi Patrika is prepared.

5. Neither the Kadim Patilki Inam service lands nor any part thereof, nor any prfits, nor any part of the profits thereof were or was ever assigned for the remuneration of the officiator. The person in possession of the Patilki Watan lands are not in any way liable to contribute for the remuneration of the officiating Patil.

6. Inspite of this, the District Deputy Collector, First Division, Dharwar, passed an order on 14-11-1935 that no Huggi or aya corn should be recovered from the Inamdars towards the remuneration of the officiating Patil and the Prant Officer passed an order dated 8-2-1947 assigning all the patilki lands mentioned in para 2 of the plaint, under section 23 of the Bombay Hereditary Offices Act for remunerating the officials. The order of 14-11-1935 assumes that the said lamds are already assigned specifically for remuneration of the officiator, but the order of 8-2-1947 assumes that there was no such assignment and purport to make a fresh assignment for the first time in 1947. These orders of the officers of defendant No.1 are thus self contradictory and illegal. They are contrary to facts. They are without jurisdiction. The order of 8-2-1947

44 24

shifts without any jurisdiction the onus of remunerating the officiator from the Inamdars to the Patils themselves. The orders are inequitable and unjust. Both these orders are passed without proper inquiry and without any sufficient grounds or evidence. No proper inquiry was ever made with regard to the prevalent custom of the patilki family being remunerated by payment of the corn to the officiator. Some of the Watandar patils were made admit their liability to contribution, under official pressure and under misrepresentation and without full understanding of the facts. These admissions are contrary to facts. These two orders of the officers of defendant No.1, are misconce ved and based on inaccurate and incomplete facts or on facts assumed which have never existed. These orders are void and inoperative. They are not binding on the plaintiffs and are liable to be set aside. The order of 14-11-1935 is in fact superceded and cancelled by the order of 8-2-1947.

7. Relying on the illegal and unjust orders of 14-11-1935 and 8-2-1947, the defendant Nos.2,3 and 4 and the Inamdars have been refusing tp pay the Aya. It was therefore necessary for the plaintiffs to file this suit to obtain proper reliefs.

8. The cause of action for this suit arose on or about 8-2-1947 the date of the illegal order passed by the Prant Officer purporting to assign the Patilki lands and the Nafa in respect therefore towards the remuneration of the officiator.

9. All the plaint ffs have filed this suit as managers of their own respective families. Defendant 5,6 and 7 are also sued as managers of their respective joint families.

10. There are numerous persons of the family of

Inamdars having the same interest as defendants 2,3 and 4 in the subject matter of the suit. The plaintiffs request that they be permitted to sue defendants 5,6 & 7 as representing all the Inamdars in addition to their personal capacity to avoid multiplicity of suit. A seperate application for such permission wiled if necessary.

11. The suit is valued for purposes of Court fees and jurisdiction at Rs.65/- as the suit is for a declaration and injuction.

12. The Court of the Civil Judge, Senior Division, Dharwar, has got jurisdiction to try this suit as the suit is against the Province of Bombay.

13. Notice under section 80 of the Civil Procedure Code has been sent to the Collector of Dharwar, by registered post. It was received by him more than two months before, the institution of this suit.

14. The plaintiffs therefore pray :-

a). For a declaration the Inamdars of Bad are liable to pay as a part of the Patilki Watan, Aya or Huggi corn to the officiating as may be determined by the Collector from time to time and for an injunction to restrain defendant 1 from recovering any amount towards the remuneration of the officiators from any member of the patilki family.

b). For recovery of costs.

c). For such other reliefs as may be entitled to under the circumstances of the case.

d). For permission to amend the plaint if and when necessary.

Dharwar. Sd/- (Plaintiffs)

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We, the above named plaintiffs, do hereby on solemn affirmation state that what is stated in the above paras is true to the best of our knowledge and belief. We believe that the same to be true.

Dharwar. Sd/- (Plaintiffs).

Drafted by M.R.Dehai Kulkarni,
Pleader, 4-12-47.

Examined and ordered to be registered in the Register of Suits.

Sd/- A.A.Soudagar,
5-12-1947. Clerk of the Court.

O r d e r.

Summons to defts. 1 to 7 for S.I. to issue. Returnable on 26-1-1948.

Sd/- B.A.Chougule,
13-12-1947. C.J.S.D.

Defendants 2,5,6 and 7 duly served absent. Exparte.

Sd/- B.A.Chougule,
26-1-1948. C.J.S.D.

Exparte order against defendant 2 is seaside

26-1-1948. Sd/- B.AChougule,
C.J.S.D.

Plaintiffs absent. Their pleader has no instructions (Exh.60). Defendants do not admit claim. Suit dismissed with costs for default. Plaintiffs to pay costs of defendants (one set).

6-6-1950. Sd/- S.S.Alur,
C.J.S.D.

(P.T.O.....

Bill Costs.

Plaintiffs 1 to 6		Deft No.1	
1. Stamp for plaint.	6-4-0	Stamp for application	7-8-0
2. Do for vakalat.	0-10-0	Pleaders fees.	15-0-0
3. Do for applications.	8-11-0		
4. Pleaders fees	15- 0-0		
5. Process fees.	13- 0-0		
Disallowed.	0- 6-0	Disallowed.	1-14-0
Balance	39- 8-0	Balance.	20-10-0

Defendants 3 and 4

1.	Stamp for plaint.	0-10-0
2.	Do for applications.	6-14-0
	Disallowed.	1-14-0
	Balance.	5-10-0

Given under my hand and Seal of the Court, this Sixth day of June 1950.

Sd/- S.S.Alur,
C.J.S.D. 15-6-1950.

(S e a l).

True Copy
Sd/- S.L.Patil,
Clerk of the Court.

Suits:
Dharwar.

For a declaration that the plaintiffs and the defendants Nos. 5,6 and 7 are not liable to contribute to the remuneration of the officiating Patil of the village of Baad, taluka Dharwar and for a permanent injunction restraining Government from recovering any amount from the plaintiffs.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No., 1234 / 2946 August 1950.
Bombay Castle,

Read Government Resolution, Legal Department No. 10311 dated the 4th November 1948.

Letter from the District Government Pleader, Dharwar No 610, dated the 17th June 1950, stating that the suit noted

In The Court of The Civil Judge (Senior Division), at Dharwar Civil Suit No.377 of 1947 Chandragouda Basangouda Patil and others - Plaintiffs; Vs. The Province of Bombay andothers - Defendants	in the margin was decide by the Civil Judge Senior Division Dharwar, on 6th June 1950, when the following order was

passed:-

"Plaintiffs absent. Their pleader has no instructions. Defendants do not admit claim. Suit dismissed with costs for default. Plaintiffs to pay costs of defendants. (one set)".

Letter from the District Government Pleader, Dharwar, No. 865, dated the 14th August 1950, forwarding uncertified copies of the Order and Bill of costs.

RESOLUTION:- The result of the suit is recorded.

By order of the Governor of Bombay

Original R.M. Mehta
R.M. Mehta,
Assistant Secretary to Government.

Dsued esp 2918

To
The Revenue Department,
The Collector of Dharwar.

Chief Factor of Dietwyt.

Assistant Resident to Government.

[illegible]

[illegible] the Chairman of [illegible]

[illegible] the request of the [illegible]

[illegible] Dec. 1954 [illegible]

[illegible] Letter from the District Officer, [illegible]

[illegible] Please file. I will [illegible]

[illegible] Yours [illegible]

[illegible]

[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]

[illegible] 1954 [illegible]

[illegible]

[illegible]

[

No. 951 dated 11 Sept '50. 27/49
Office of the Dist Govt Pleader,
Dharwar.

To

The Remembrancer of Legal Affairs,

Bombay.

Sub :- Mis. No.43 of 1950 for restoration of L.C.Suit No.377 of 1947 to the file in the Court of the Civil Judge, Senior Division, Dharwar -

Ref :- G.R.L.D.No.10311 dated 4-11-1948.

Sir,

The L.C.Suit No.377 of 1947 which was fixed for hearing on 6-6-1950 in the Court of the Civil Judge, Senior Division, Dharwar, was dismissed for default on that day as all the plaintiffs remained absent and their pleader submitted a purshis that he had no instructions to conduct the case on that day.

The plaintiffs have now applied on 28-6-1950 in Mis. No.43 of 1950 in the Court of the Civil Judge S.D., Dharwar, for restoration of L.C.Suit No.377 of 1947 to file. They state in the application as under :-

"The applicants had filed L.C.S.No.377/47 against the opponents which was fixed for hearing on 6-6-1950. The suit was dismissed for default on that day. Plaintiff No.6 alone had full instructions of the suit and had all the documents connected with the suit. The other plaintiffs were not in a position to conduct the suit. Plaintiff No.6 had gone to Naregal on 3-6-1950 for hisprivate work with a view to return before the date of hearing. As he fell ill he could not return to Dharwar on the date of hearing. He returned to his place on 8-6-1950. The remaining plaintiffs

12 SEP 1950

"The remaining plaintiffs remained absent as it was not possible for them to conduct the suit without the papers. As all the plaintiffs remained absent their pleader submitted no instruction purshis to the Court on that day as a result of which the suit was dismissed. It is prayed that in view of there being sufficient cause for for their absence, the suit may be restored to file. As the suit relates to the liability of payment to the officiating Patils it affects the plaintiffs and their decendants and much loss would be caused to them if the suit is not restored to file. Plffs therefore pray to set aside the ex parte ~~order~~ decree passed against them and to restore the suit to file and be heard on merits."

The draft of the objections to the above application on behalf of the State of Bombay is as under :-

I. The application is not true and bonafide.

II. The facts and reasons given for the absence of the plaintiffs on the date of hearing on 6-6-1950 are not admitted. The plffs have taken numerous adjournments in the case and it was peremptorily fixed on 6-6-1950. There are therefore no sufficient reasons for restoring the suit to file.

III. The plaintiffs have no case in the suit even on merits and they are not likely to succeed. Hence they caused delay by taking several adjournments in the suit The application is intended to cause delay as

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there is no other reason for the plaintiffs to apply for restoration.

IV. If at all the Court comes to the conclusion that the suit be restored to file, all the costs of the suit as well as of this application be ordered to be produced before it was actually restored to file in separate set for this opponent.

V. For all these reasons the application should be dismmissed with costs.

It is therefore requested to sanction the defence and the objections as drafted above early. The date fixed for submitting objections is on 26-10-1950.

Yours faithfully,

R.V. Jathar

for Dist. Govt. Pleader.

Forwarded with compliments through the Collector, Dharwar, with reference to his No.Law dated 10-7-1948 and 21-8-1948.

No.14393

Office of the
Remembrancer of Legal Affairs,
Bombay Castle (Bombay No.1), October 1950.
13th

Subject :- Miscellaneous Application No. 43 of 1950 for restoration of Civil Suit No. 377 of 1947.

Memorandum.

With reference to his letter No. 951, dated the ~~1st~~ 11th September 1950, the District Government Pleader, Dharwar is informed that the defence of the Miscellaneous Application noted above is sanctioned.

A copy of the draft objections as slightly amended is sent herewith.

o/c

For Remembrancer of Legal Affairs.

To

The District Government Pleader,
Dharwar.

HSP/11/10

Submitted for signature.

Issued 13/10 13/10

A. Sole.

54 32
Submitted after issue.
File in S. Dwr. 1/49.

BSH.
16/10

A.-s ola.

16/10.

S Dwr 1/49